

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

AGENDA

Neighborhood Transitions and Residential Land Use Work Group General Assembly Building, House Room C June 9, 2010, 2:30 P.M.

Members Present: Delegate Rosalyn Dance (Chair), Delegate Glenn Oder, Delegate Daniel Marshall, Delegate David Bulova, Barry Merchant, Shaun Pharr, Chip Dicks, Mike Toalson, John Jordan, David Freeman, Kelly Harris-Braxton, Mark Flynn, Bill Ernst, Neal Barber, A. Vaughn Poller, Tyler Craddock, Chris Freund

Staff Present: Elizabeth Palen, Jillian Malizio

I. Welcome and Call to Order

- Delegate Rosalyn Dance, *Chair*
 - Meeting called to order at 2:32 P.M.

II. HB 232—Rental property; civil penalty imposed on certain property owners (Dance, 2010)

- Delegate David Bulova
 - This bill originated in the city of Fairfax, adjacent to George Mason University (GMU). GMU is competing for the largest university in the state with VCU. Traditionally GMU had been a commuter school, but now it has become a full-fledged university with students who are staying and living in the community.
 - The bill addresses situations where there is an absentee landlord with tenants who have a pattern of breaking local ordinances. Over a period of time, incidents such as indecent exposure and public intoxication cause communities to lose value.
 - The bill is written to deal with extreme situations where you have bad tenants and disinterested landlords.
 - Key elements to the bill:
 - Violations have to be sustained and frequent, this means there must be three or more within a six month period;
 - Violations must be actionable and documented;
 - Action can't be taken by the court while the landlord is in the process of trying to get someone evicted; and

DELEGATE JOHN A. COSGROVE
DELEGATE ROSALYN R. DANCE
DELEGATE DAVID BULOVA
DELEGATE DANIEL W. MARSHALL, III
DELEGATE G. GLENN ODER

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
T. K. SOMANATH
MELANIE S. THOMPSON

- There must be proper notification—when the bill was introduced last year it attempted to improve landlord notification. After the third violation a landlord would be given sixty days notice before civil action could be taken. One suggestion was that notice be given after the first or second complaint.
- **Delegate Marshall**—*The issue I see here is that we are trying to fix a problem that exists in Fairfax, but does not exist in other places.*
 - Certainly it is a local situation and given the choice between having a bill and not having a bill I would be okay with allowing it to be specific to certain locations. However, I have gotten the impression from other localities with universities that this is a problem for them as well.
- **A. Vaughn Poller**—*I have had some dialogue with the city of Williamsburg and they are interested in the bill.*
- **David Freeman**—*The city of Norfolk is also interested in this bill as well.*
- **Mark Flynn**—*There were a number of limitations included in the bill. The specific violations the tenants have to have committed are: indecency, public intoxication, and violations of local noise ordinances. In addition, violations must occur on the property, if you are to charge someone with one of these violations somewhere else, it does not apply to the three- strike- rule. One thing that was discussed was just going after the tenant, but they can be hard to catch. The bill imposes a civil penalty with a \$500 maximum fine. It applies only to rental properties that contain four or fewer rental units because if a property has a greater number of units there will likely be a manager on site. If the landlord files suit to evict the tenants, while that case is pending, the landlord's case is stayed. The Virginia Municipal league supports this bill; it is about helping neighbors and helping blue collar people who don't have HOA's to help them.*
- **Kelly Harris Braxton, Virginia First Cities**—*We support this bill, especially if it is a local option and not a mandate. What if you are the tenant and there is a person at the tenants' house who was the problem?*
 - **Mark Flynn**—*This is only a problem if the tenants themselves are actually charged.*
- **Connie Chamberlin**—*Is it just that the tenant is charged or does there have to be a disposition?*
 - **Mark Flynn**—*Charged, if you have to wait for disposition it may take too long.*
- **Shaun Pharr**—*It is not clear that the trigger is actual violations of law by the tenant. One concern raised is the issue of uneven law enforcement. Is the trigger just X number of calls? Because then there is a question of proof.*
- **Mike Toalson**—*Any thought of limiting the bill just to cities?*
- **Chip Dicks**—*The workgroup had a philosophical problem with holding a landlord responsible for tenant acts. Why impose liability on the landlord when the tenant is the one doing the wrong? The workgroup felt this was a fair balance.*
- **Mark Flynn**—*This bill is consistent with other provisions in this section. For example, if the landlord allows buildings to run down, the landlord is liable.*
- **Chip Dicks**—*I don't disagree, and the Commission thought so too, but the Counties, Cities, and Towns Committee did not agree. I think we can tighten the*

bill up by working on the language and we will be able to satisfy those opposed to the bill.

- **Karen Harwood**—*In response to the comment on limiting the bill to cities; in the case of GMU the university is in the city, the housing is in the county.*
- **Delegate Dance**—*We spent a lot of time working on this bill, the issue has been notification. I don't see the need for a new workgroup, but I would propose that Delegate Bulova work with Mark Flynn, Chip Dicks and Elizabeth Palen to refine the bill.*

III. HB 790—Removal of defacement from structures (Villanueva, 2010)

- **Wells Freed, Virginia Beach Code Enforcement Administrator**
 - I would like to thank Delegate Villanueva for his efforts on the topic. Over the years we have tried several different ways to get rid of graffiti, but this year the program is not funded by the budget. Fortunately our sheriff agreed to use inmate workforce to clean the graffiti.
 - Support this bill, because of the effect on the economy.
 - **Chip Dicks**—*The existing legislation deals with unoccupied property. What this bill says is that if I own property and it's not occupied, if I do not respond to the localities request or remove the graffiti, the locality can then put a lien on the property.*
 - The proposal is to have the policy apply to unoccupied building and occupied buildings. Unoccupied property is a tool for the locality to make sure the neighborhood didn't go down completely.
 - **Tyler Craddock, Chamber of Commerce**—*Why is it that Virginia Beach needs to specifically tax that property?*
 - We found that approximately 40% of what we were doing was on commercial property. We proposed the tax on commercial property only.
 - **Shaun Pharr**—*The remedy would be a lien against the property?*
 - We would initially send a bill to the property owner.
 - **Shaun Pharr**—*And then the municipality would not be made whole until the property sells?*
 - The treasurer can assume collection prior to sale in Virginia Beach.
 - **Shaun Pharr**—*My issue is that the bill is extremely broad. I think there will be an enforcement issue as well.*
 - **Delegate Marshall**—*You might want to think of tightening up the language.*
 - **Kelly Harris-Braxton**—*The defacement and tagging of properties is a problem that affects communities and has a terrible impact on neighborhoods. At the same time localities are taking on this expense to keep communities moving forward. With the tremendous budget cuts in the last few years, localities cannot manage this expense.*
 - **Delegate Marshall**—*The problem is that this bill is too open ended; narrow it up and put a limit at the top for cost.*

- **George Peyton, Virginia Retail Federation**
 - Many small local retailers respond to the defacement of their property by trying to remove it themselves, this is a big expense.
 - Restitution should go to the business owner, not the locality.
 - The defacement is caused by criminals, gangs who are tagging property, and minors. In Richmond, parents of the minor have to pay for the removal of the paint.
 - The Virginia Retail Federation does not oppose for vacant properties, but opposes this bill as applied to occupied properties.
- **Bob Broomfield, Carytown Merchants Association**
 - We oppose the bill because as we have found, there is not just any one solution that works. Different products work on different surfaces. We have achieved success through the combined efforts of the city and the business associations.
 - What many merchants in Carytown have done is match their paint and keep the paint on hand. If any buildings were to be defaced, the merchant would supply the paint and the city will provide the labor.
 - If the graffiti is removed within 24 hours, there is a much lower risk of getting re-graffitied.
- **A. Vaughn Poller**—*Were you able to share this information with other people around the Commonwealth?*
 - Not yet, we have been testing different products to see what works best.
- **Delegate Dance**—*Put together a group meeting that all interested parties can come and weigh in on and share their opinions on the issue.*

IV. HB 960—Local housing trust fund (Ingram, 2010)

- **Neil Barber, Virginia Housing Coalition**
 - VHC has been a strong advocate for a number of years of the local housing trust fund. We have held a series of meetings around the state and had discussions with local partners. We approached Delegate Ingram asking that he submit legislation that would clarify that localities to have the ability to establish the fund. Funds that were not established prior to the enactment would not be affected.
 - **Delegate Marshall**—*What happened in the Senate?*
 - There were a couple of issues, one was where do the revenues come from?
 - **Mike Toalson**—*There was some late concern about localities and non tax paying entities getting into the banking business.*
 - The localities authority with regard to expenditure is not expanded. Typically a locality uses trust money. When you serve low/moderate income houses the revenue streams are not sufficient. A number of loans, and soft seconds are needed.
 - **Connie Chamberlin**—*Is there anything in the bill which restricts the localities to only dealing with non-profits or can they provide for- profits as well.*
 - **Delegate Oder**—*This is a good idea we have been trying to do for awhile. It seems to me like the issues I have heard about could probably be written into the statute. This is a good idea needs that needs more work.*
 - **Tyler Craddock**—*What about the cash proffer system?*

- I don't think this bill expands cash proffer system.
- **Karen Harwood**—*When the bill got to the senate last session there was an amendment to include proffer money to be deposited and used into the trust fund. That's when the bill was lost. In Fairfax, we would object to any similar amendment.. We've had proffers used for over 20 years in Fairfax County.*
- **Delegate Dance**—*Mr. Barber will work on the wording.*
- **Delegate Oder**—*We know now where the two sides of this are, if we can fix the language perhaps this bill will then be in a position where it can pass the General Assembly .*

V. **HB 1280—Virginia Fair Housing Law; unlawful discriminatory housing practices (McClellan, 2010)**

- **Helen O'Beirne**, *Housing Opportunities Made Equal of Virginia*
 - With regard to this bill there are three important points:
 - **Content**—The purpose is to create affordable housing, this bill does that by adding affordable housing as a protected class to the Fair housing bill. If a locality turns down an affordable housing development solely because it contained affordable housing, then that would be illegal.
 - **Background**—A North Carolina bill, which became law, is similar in language to what is proposed here. In North Carolina, the bill was modeled on a law in Florida, which prohibits discrimination based on the financing for the development.
 - It is our belief that the Fair Housing Act may be a significant vehicle to reshape the affordable housing debate.
 - Have spoken to both non- and for- profit developers, all feel that this is a real problem.
 - Home Builders, Virginia Association of Realtors, etc. have supported the bill in the past.
 - HOME's position is that this is a win-win for affordable housing.
 - **Chip Dicks**—*Since it came up late in Session, and there wasn't any opposition, maybe we could just tighten the language a little bit. The point the bill is achieving is the units are zoned for multi- family, whether the housing is affordable or not affordable should not make any difference. If you meet all the other requirements you should be able to go forward irrespective of how the units are funded.*
 - **Delegate Oder**—*This bill seemed like a good idea but got derailed, I was hoping today to vote on this to send it to the full Housing Commission. If you think there is going to be a change is it possible for us to work on it now?*
 - **Delegate Dance**—*I think we should wait for the stakeholders to get together to work on the issue.*

VI. **Public Comment**

- **Mike Toalson**—*Several years ago there was legislation that created the ability for by right cluster—mandated for cluster development housing while at the same time preserving a green space. As a compromise the mandate said it would only apply to 40% of localities. Localities like Prince George have chosen to take agriculturally*

zoned areas and allow for by right cluster in that area of the county, which don't have water and sewer. Cluster development may be that I own one property from here to the acre. Allows developers to provide a more affordable product. If we could ask someone from Prince George Planning or whomever, to come and visit us and discuss it so that we may be able to see if we should pursue the issue.

- **Chip Dicks**—*I am involved in the activity and there is a law suit pending against Prince George County. The use of the cluster ordinance to stop growth was not the intent of the law.*

VII. Adjourn

- **Meeting adjourned at 4:06 P.M.**